

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2007-1504-PWS-E **TCEQ ID:** RN101194066 **CASE NO.:** 34632  
**RESPONDENT NAME:** McLennan County Water Control and Improvement District No. 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input checked="" type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> McLennan County WCID 2, the intersection of West Birch and South Kay Road, Elm Mott, McLennan County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> One complaint was received on July 2, 2007, alleging that the Respondent did not have a licensed operator for the system and that there had been a water outage on June 30, 2007. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> <b>TCEQ Attorney/SEP Coordinator:</b> None <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 <b>Respondent:</b> Mr. James Beheler, President, McLennan County Water Control and Improvement District No. 2, P.O. Box 116, Elm Mott, Texas 76640 <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> July 2, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> July 2, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 23, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation. Citizen-collected evidence in the form of an affidavit supplied by a customer of the water supply was used to document the time, date, and duration of the water outage.</p> <p><b>WATER</b></p> <p>Failed to issue a boil water notice to the customers of the water supply within 24 hours following a low distribution pressure event in which the water pressure dropped below 20 pounds per square inch [30 TEX. ADMIN. CODE § 290.46(q)(1)].</p>	<p><b>Total Assessed:</b> \$460</p> <p><b>Total Deferred:</b> \$92  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$368</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to the customers of the water supply in the event of distribution pressures below 20 psi, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that potability of the water may have been compromised, as required by 30 TEX. ADMIN. CODE § 290.46; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation, including a copy of the written protocol, to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 1550002



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

TCEQ

<b>DATES</b>	<b>Assigned</b>	20-Aug-2007	<b>Screening</b>	10-Sep-2007	<b>EPA Due</b>	
	<b>PCW</b>	14-Sep-2007				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	McLennan County Water Control and Improvement District No. 2		
<b>Reg. Ent. Ref. No.</b>	RN101194066		
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	34632	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1504-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Rebecca Clausewitz
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$250
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	4% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$10
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Notes: The compliance history enhancement is due to two prior Notices of Violation containing violations that are dissimilar from the violation in the current enforcement action.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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Before NOV	NOV to EDRP/Settlement Offer
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Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes: The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	\$200	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$200	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$260
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## OTHER FACTORS AS JUSTICE MAY REQUIRE

77%

<b>Adjustment</b>	\$200
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: An enhancement is recommended for recovery of the avoided costs of compliance.

<b>Final Penalty Amount</b>	\$460
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## STATUTORY LIMIT ADJUSTMENT

<b>Final Assessed Penalty</b>	\$460
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## DEFERRAL

20%

<b>Adjustment</b>	Reduction	-\$92
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

## PAYABLE PENALTY

\$368
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Screening Date 10-Sep-2007

Docket No. 2007-1504-PWS-E

PCW

Respondent McLennan County Water Control and Improvement Distri

Policy Revision 2 (September 2002)

Case ID No. 34632

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101194066

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The compliance history enhancement is due to two prior Notices of Violation containing violations that are dissimilar from the violation in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 4%

<b>Screening Date</b> 10-Sep-2007		<b>Docket No.</b> 2007-1504-PWS-E		<b>PCW</b>		
<b>Respondent</b> McLennan County Water Control and Improvement District No. 2				<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 34632				<i>PCW Revision June 26, 2007</i>		
<b>Reg. Ent. Reference No.</b> RN101194066						
<b>Media [Statute]</b> Public Water Supply						
<b>Enf. Coordinator</b> Rebecca Clausewitz						
<b>Violation Number</b>		<div style="border: 1px solid black; padding: 2px;">1</div>				
<b>Rule Cite(s)</b>		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 290.46(q)(1)</div>				
<b>Violation Description</b>		<div style="border: 1px solid black; padding: 5px;"> <p>Failed to issue a boil water notice to the customers of the water supply within 24 hours following a low distribution pressure event in which the water pressure dropped below 20 pounds per square inch. Specifically, a water outage occurred at the residences of several customers of the water system on June 30, 2007 when a power relay failed at the elevated storage tank, and no boil water notice was issued by the water system. Citizen-collected evidence, in the form of an affidavit supplied by a customer of the water supply, was used to document the time, date, and duration of the water outage.</p> </div>				
<b>Base Penalty</b>					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>						
<b>OR</b>	<b>Harm</b>					
	<b>Release</b>	Major	Moderate	Minor		
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
	Potential	X	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<b>Percent</b>	<div style="border: 1px solid black; padding: 2px;">25%</div>
<b>&gt;&gt; Programmatic Matrix</b>						
<b>Matrix Notes</b>	Falsification	Major	Moderate	Minor		
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		
	<b>Percent</b>				<div style="border: 1px solid black; padding: 2px;">0%</div>	
<p>Failing to issue a boil water notice to the customers of the water system could result in those customers being unknowingly exposed to significant amounts of contaminants which exceed levels that are protective of human health.</p>						
<b>Adjustment</b>					<div style="border: 1px solid black; padding: 2px;">\$750</div>	
					<div style="border: 1px solid black; padding: 2px;">\$250</div>	
<b>Violation Events</b>						
<b>Number of Violation Events</b>		<div style="border: 1px solid black; padding: 2px;">1</div>		<b>Number of violation days</b>		
		<div style="border: 1px solid black; padding: 2px;">1</div>				
<b>mark only one with an x</b>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>				
	single event	X				
<p>One single event is recommended.</p>					<b>Violation Base Penalty</b>	
					<div style="border: 1px solid black; padding: 2px;">\$250</div>	
<b>Economic Benefit (EB) for this violation</b>						
<b>Statutory Limit Test</b>						
<b>Estimated EB Amount</b>		<div style="border: 1px solid black; padding: 2px;">\$200</div>		<b>Violation Final Penalty Total</b>		
				<div style="border: 1px solid black; padding: 2px;">\$460</div>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<div style="border: 1px solid black; padding: 2px;">\$460</div>	

**Economic Benefit Worksheet**

**Respondent** McLennan County Water Control and Improvement District No. 2  
**Case ID No.** 34632  
**Reg. Ent. Reference No.** RN101194066  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	30-Jun-2007	1-Jul-2007	0.0	\$0	\$200	\$200
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to issue a boil water notice to the customers of the water system, calculated for the 24 hours following the water outage.

Approx. Cost of Compliance

\$200

TOTAL

\$200

# Compliance History

Customer/Respondent/Owner-Operator: CN600639918 McLennan County Water Control and Improvement District No. 2 Classification: AVERAGE Rating: 2.24

Regulated Entity: RN101194066 MCLENNAN COUNTY WCID 2 Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1550002  
WATER LICENSING LICENSE 1550002

Location: AT THE INTERSECTION OF W BIRCH AND S KAY, ELM MOTT, MCLENNAN COUNTY

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: August 27, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 27, 2002 to August 27, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Clausewitz Phone: (210) 403-4012

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 11/28/2006 | (518207) |
| 2 | 01/31/2007 | (537785) |
| 3 | 03/20/2007 | (543790) |
| 4 | 08/15/2007 | (566488) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |   |                  |                                                                                                                              |                       |
|---|------------------|------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 1 | Date: 11/07/2006 | (518207)                                                                                                                     |                       |
|   | Self Report?     | NO                                                                                                                           | Classification: Minor |
|   | Citation:        | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)<br>30 TAC Chapter 290, SubChapter D 290.43(e)                               |                       |
|   | Description:     | Failure to provide an intruder-resistant fence in order to protect the well, the elevated tank, and the ground storage tank. |                       |
| 2 | Date: 11/30/2006 | (518207)                                                                                                                     |                       |
|   | Self Report?     | NO                                                                                                                           | Classification: Minor |
|   | Citation:        | 30 TAC Chapter 290, SubChapter D 290.46(s)(1)                                                                                |                       |
|   | Description:     | Failure to calibrate the flow measuring devices.                                                                             |                       |
|   | Self Report?     | NO                                                                                                                           | Classification: Minor |
|   | Citation:        | 30 TAC Chapter 290, SubChapter D 290.42(l)                                                                                   |                       |
|   | Description:     | Failure to provide a plant operations manual.                                                                                |                       |





Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MCLENNAN COUNTY WATER  
CONTROL AND IMPROVEMENT  
DISTRICT NO. 2  
RN101194066**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1504-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding McLennan County Water Control and Improvement District No. 2 ("the Respondent") under the authority of Tex. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at the intersection of West Birch and South Kay Road in Elm Mott, McLennan County, Texas (the "Facility") that has approximately 716 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 28, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Four Hundred Sixty Dollars (\$460) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Sixty-Eight Dollars (\$368) of the administrative penalty and Ninety-Two Dollars (\$92) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.



6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to issue a boil water notice to the customers of the water supply within 24 hours following a low distribution pressure event in which the water pressure dropped below 20 pounds per square inch ("psi"), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1), as documented during an investigation conducted on July 2, 2007 and through citizen-collected evidence in the form of an affidavit supplied by a customer of the water supply on July 5, 2007.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: McLennan County Water Control and Improvement District No. 2, Docket No. 2007-1504-PWS-E" to:



Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to the customers of the water supply in the event of distribution pressures below 20 psi, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that potability of the water may have been compromised, as required by 30 TEX. ADMIN. CODE § 290.46; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation, including a copy of the written protocol, to demonstrate compliance with Ordering Provision 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.





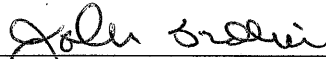
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director


12/28/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

James Beheler

\_\_\_\_\_  
Name (Printed or typed)

Authorized Representative of

McLennan County Water Control and Improvement District No. 2

November 6, 2007  
Date

President of Board  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

